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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William L. Putnam

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EXAMINER

HOSSAIN, TANIM M

ART UNIT

PAPER NUMBER

2445

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/046,341	<b>Applicant(s)</b> PUTNAM ET AL.	
	<b>Examiner</b> Tanim Hossain	<b>Art Unit</b> 2445	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, and 7-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates (U.S. 6,748,237) in view of Wang (U.S. 2004/0199387).

As per claim 1, Bates teaches a method for a media agent to monitor multiple broadcast transmissions, each broadcast transmission containing media content, comprising: identifying the broadcast transmission to be monitored (abstract; column 5, lines 40-51); establishing connections with the identified broadcast transmissions (abstract; column 4, line 56 – column 5, line 10; column 5, lines 40-51); identifying, for each connected broadcast transmission, at least one characteristic of the media content associated with the connected broadcast transmission (column 6, lines 27-41; column 7, lines 36-60); and maintaining the association between the identified at least one characteristic of the media content and the connected broadcast transmission (column 7, lines 1-60; column 8, line 63 – column 9, line 34).

Bates does not specifically teach the identification of one characteristic of the media content through a pattern recognition scheme, without the need for the media content to include a unique identifier that is derived from, inserted, or embedded in the media content. Wang teaches

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the recognition of songs and song types through a pattern recognition scheme, such that radio listeners would be able to identify songs without the need for the content to include a unique identifier related to it, as claimed (abstract; paragraphs 0008, 0055, 0063). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to identify songs and genres through a statistical pattern recognition scheme without the need for the content to include identifiers related to it, as taught by Wang in the system of Bates. The motivation for doing so lies in the fact that the Bates invention desires to solve the problem of identifying and obtaining songs during a broadcast through recognition schemes, and Wang introduces another method through which this identification is possible, both to achieve the aim of allowing a user to find desired music. Such a modification constitutes a known design choice, and would thus have been envisioned by one of ordinary skill in the art at the time of the invention. Both inventions are from the same field of endeavor, namely a facilitated method to procure music heard during a broadcast.

As per claim 2, Bates-Wang further teaches that the broadcast transmissions are composed of streaming audio data (Bates: abstract).

As per claim 3, Bates-Wang further teaches that the broadcast transmissions are transmitted over the Internet (Wang: 0020).

As per claim 4, Bates-Wang further teaches that the statistical pattern recognition scheme is accomplished through an historical analysis of the media content associated with the connected broadcast transmission (Bates: column 7, lines 1-60; Wang: 0063).

As per claim 5, Bates-Wang further teaches that the pattern recognition scheme examines the audio portion of the media content (Wang: 0063).

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As per claim 7, Bates-Wang further teaches terminating the connection to the identified broadcast transmissions after the step of identifying the at least one characteristic of the media content is complete; and wherein the step of establishing connections with the identified broadcast transmissions is not performed simultaneously for all broadcast transmissions (Bates: 5; 40-51, 6; 27-41).

As per claim 8, Bates-Wang further teaches reestablishing, when a transition in media content is expected, connections to the identified broadcast transmissions whose connections were terminated (Bates: 7; 1-60, 8; 63 - 9; 34).

As per claim 9, Bates-Wang further teaches that the expected transition in media content is based on a duration of the media content (Bates: 7; 1-60).

As per claim 10, Bates-Wang further teaches presenting the at least one characteristic of the media content to a user for each connected broadcast transmission (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claim 11, Bates-Wang further teaches receiving a selection of one of the at least one characteristic of the media content from among all the at least one characteristic of the media contents presented to the user; and causing the user to receive the broadcast transmission associated with the selected at least one characteristic of the media content (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claims 12-14, Bates-Wang further teaches that the at least one characteristic of the media content is a musical genre, title of a song, and name of an artist (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

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As per claim 15, Bates-Wang further teaches receiving preferred media content parameters from a user (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claim 16, Bates-Wang further teaches determining whether the at least one characteristic of the media content associated with each connected broadcast transmission is within the preferred media content parameters; and presenting a notification to the user when the at least one characteristic of the media content associated with each connected broadcast transmission is determined to be within the preferred media content parameters (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claims 17 and 18, Bates-Wang further teaches determining whether the at least one characteristic of the media content associated with each connected broadcast transmission is within the preferred media content parameters; causing the user to receive the broadcast transmission associated with the certain type of characteristic when the at least one characteristic of the media content associated with each connected broadcast transmission is determined to be within the preferred media content parameters (Bates: 5; 40-51, 6; 27-41, 7; 1-60); and recording the broadcast transmission associated with the certain type of characteristic when the at least one characteristic of the media content associated with each connected broadcast transmission is determined to be within the preferred media content parameters (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claim 19, Bates-Wang further teaches that the recording broadcast transmission is performed for the purpose of time shifting (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0040, 0056).

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As per claim 20, Bates-Wang further teaches accessing a predetermined set of broadcast transmissions from an advisor database where each predetermined broadcast transmission is associated with a classification (Bates: 5; 40-51, 6; 27-41, 7; 1-60), wherein the step of identifying the broadcast transmission to be monitored is accomplished through an analysis of the classifications associated with the set of predetermined broadcast transmissions and the preferred media content parameters (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

As per claim 21, Bates-Wang further teaches that the statistical pattern recognition scheme is accomplished through a historical analysis of characteristics of media content associated with the identified broadcast transmission (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0063).

As per claim 22, Bates teaches a method comprising the steps of: selecting a group of broadcast transmissions to be monitored, each broadcast transmission containing media content (Bates: 5; 40-51, 6; 27-41, 7; 1-60); and repeating, for each broadcast transmissions in the group of broadcast transmissions, the steps of establishing a connection to the broadcast transmissions (Bates: 5; 40-51, 6; 27-41, 7; 1-60); and identifying characteristics of the media content contained in the connected broadcast transmissions through an analysis of the connected broadcast transmissions (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

Bates does not specifically teach that characteristics of the media content are identified without the need for the media content to include a unique identifier that is derived from, inserted, or embedded in the media content. Wang teaches the identification of characteristics of media content contained in broadcast transmissions through an analysis of the broadcast transmissions, without the need for the media content to include a unique identifier that is

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derived from, inserted, or embedded in the media content (paragraphs 0055, 0063). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to identify songs and genres without having the content include a unique identifier related to it, as claimed, as taught by Wang in the system of Bates. The motivation for doing so lies in the fact that the Bates invention desires to solve the problem of identifying and obtaining songs during a broadcast through recognition schemes, and Wang introduces another method through which this identification is possible, both to achieve the aim of allowing a user to find desired music. Such a modification constitutes a known design choice, and would thus have been envisioned by one of ordinary skill in the art at the time of the invention. Both inventions are from the same field of endeavor, namely a facilitated method to procure music heard during a broadcast.

As per claim 23, Bates-Wang further teaches presenting the identified characteristics of the media contents to the user (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0063).

As per claim 24, Bates-Wang further teaches receiving from the user a selection from among the identified characteristics of the media contents presented to the user; and causing the user to receive the broadcast transmission that is associated with the selection (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0063).

As per claim 25, Bates-Wang further teaches receiving from the user a selection of preferred media content parameters; determining whether the identified characteristics of each media content is within the preferred media content parameters; and notifying the user when the identified characteristics of a media content is identified as being contained in a broadcast transmission within the group of broadcast transmissions (Bates: 9; 14-45).



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As per claim 26, Bates teaches a media agent comprising: a user interface for a user to identify, either directly or indirectly, a plurality of broadcast transmissions (Bates: 5; 40-51, 6; 27-41, 7; 1-60); a network interface for receiving the plurality of identified broadcast transmissions from a network (Bates: 5; 40-51, 6; 27-41, 7; 1-60); a media decoder for decoding each broadcast transmission received from the network (Bates: 4; 10-24); and a monitoring module for identifying at least one characteristic of the media content of the decoded broadcast transmission (Bates: 5; 40-51, 6; 27-41, 7; 1-60).

Bates does not specifically teach that characteristic of media content of the decoded broadcast transmission is identified through a statistical pattern recognition scheme without the need for the media content to include a unique identifier that is derived from, inserted, or embedded in the media content. Wang teaches a monitoring module for identifying at least one characteristic of media content of a decoded broadcast transmission through a statistical pattern recognition scheme without the need for the media content to include a unique identifier that is derived from, inserted, or embedded in the media content (paragraphs 0055, 0063). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to identify songs and genres through a statistical pattern recognition scheme without the need for the media content to include a unique identifier related to it, as claimed, as taught by Wang in the system of Bates. The motivation for doing so lies in the fact that the Bates invention desires to solve the problem of identifying and obtaining songs during a broadcast through recognition schemes, and Wang introduces another method through which this identification is possible, both to achieve the aim of allowing a user to find desired music. Such a modification constitutes a known design choice, and would thus have been envisioned by one

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of ordinary skill in the art at the time of the invention. Both inventions are from the same field of endeavor, namely a facilitated method to procure music heard during a broadcast.

As per claim 27, Bates-Wang further teaches that the user interface presents the at least one characteristic of the decoded broadcast transmission to the user (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0063).

As per claim 28, Bates-Wang further teaches that the monitoring module is additionally for associating the identified at least one characteristic of the media content with the broadcast transmission received from the network (Bates: 5; 40-51, 6; 27-41, 7; 1-60; Wang: 0063).

### ***Response to Remarks***

Applicant's remarks filed on February 13, 2008 have fully been considered.

- a. The rejection under 35 USC 112 is hereby withdrawn.
- b. Applicant asserts that Bates-Wang does not teach that a characteristic of the media content associated with the broadcast transmission is identified. Examiner respectfully disagrees. Column 7, lines 1-60 teaches this limitation. Specifically, in lines 36-60, the system determines, for example, whether a certain song matches a song in a favorite list. The system, for example, also determines whether a song corresponds to a favorite artist. This then clearly constitutes the identification of a characteristic of media content associated with a transmission, as claimed.
- c. Wang teaches the identification of at least one characteristic of media content without the need for the media content to include a unique identifier that is derived from, inserted, or

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embedded in the media content. This is exemplified by the identification of the media through a sample of it, through a pattern recognition system. This clearly constitutes the claimed identification without the need to include a unique identifier related to the media content, as claimed.

d. Regarding claims 4 and 21, Bates teaches that recognition of media content is accomplished through a previous identification of it (column 4, line 56 - column 5, line 10; column 7, lines 36-60; column 8, line 63 - column 9, line 34). This constitutes an historical analysis of the media content. By combining Wang's pattern recognition scheme as the identification method, the combined system would recognize media by analyzing the media sample against a previously identified media sample to see whether it is the same, for example. This then constitutes the claimed limitation of the statistical pattern recognition scheme being accomplished through an historical analysis of the media content associated with the broadcast transmission.

e. Regarding claim 8, Bates-Wang teaches "re-establishing, when a transition in media content is expected, connections to the identified broadcast transmissions." This is constituted, for example, when a sporting event is ending, the system may transition to another preferred station. Or also if a station's signal is failing (the expectation being that the signal will fail altogether), the system transitions to another station with a similar genre, for example. Both of these constitute the expectation of a transition in media content, as claimed.

f. Regarding claim 9, the ending of a sporting event in Bates constitutes that the expected transition in media content is based on a duration of the media content, as claimed.

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g. Wang (paragraphs 0040, 0056) fully teaches recording the broadcast transmission for the purpose of time shifting, as claimed in claim 19. The users may listen to the media on-demand, which constitutes time shifting.

For these reasons, the rejections are deemed proper.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanim Hossain whose telephone number is (571)272-3881. The examiner can normally be reached on 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571/272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tanim Hossain

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Patent Examiner

Art Unit 2445

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445